

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID WARE,

Petitioner,

vs.

SCOTT R. FRAKES,

Respondent.

8:17CV85

ORDER

This matter is before the court on Petitioner's Motion for Leave to Proceed in Forma Pauperis ("IFP"). (Filing No. 2.) Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. 28 U.S.C. § 1914(a). The court has reviewed the application to proceed IFP pursuant to 28 U.S.C. § 1915(a)(1)-(2). Petitioner's trust account information shows that Petitioner's account contained an average monthly balance of \$100 or more for the six-month period immediately preceding the filing of the petition. (Filing No. 4.) Thus, the court concludes that Petitioner must be required to pay the \$5.00 filing fee because he has the financial ability to do so. See 28 U.S.C. § 1915(a). No further review of this case will take place until the fee is paid.

IT IS THEREFORE ORDERED that:

- 1) Petitioner's request to proceed IFP (Filing No. 2) is denied.
- 2) Petitioner must pay the \$5.00 filing fee within 30 days. Petitioner is warned that if the fee is not paid as required, the court may dismiss this case without further notice.

- 3) The clerk of the court is directed to set a case management deadline in this case using the following text: April 4, 2017: deadline for Petitioner to pay \$5.00 filing fee.
- 4) No further review of this case will take place until the filing fee is paid.

March 21, 2017.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge